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13 Attorneys for Defendants  
14 MIDLAND FUNDING LLC, MIDLAND CREDIT  
MANAGEMENT, INC., and ENCORE CAPITAL  
GROUP

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

19 IN RE: MIDLAND CREDIT  
MANAGEMENT, INC.,  
20 TELEPHONE CONSUMER  
PROTECTION ACT LITIGATION.

CASE NO. 11-md-2286 MMA (MDD)

*Also Relevant To Case Nos. 3:16-cv-02157-MMA-MDD; 3:16-cv-02768-MMA-MDD*

**NOTICE OF MOTION AND MOTION  
TO COMPEL ARBITRATION,  
STRIKE CLASS ALLEGATIONS,  
AND STAY PROCEEDINGS**

Date: September 17, 2018  
Time: 2:30 p.m.  
Courtroom: 3D

1                   **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2                   **PLEASE TAKE NOTICE** that on September 17, 2018, at 2:30 p.m., or as  
 3 soon thereafter as the matter may be heard, in Courtroom 3D of the above-entitled  
 4 Court, located at 221 West Broadway, Suite 3195, San Diego, California 92101,  
 5 Defendants Midland Credit Management, Inc., Midland Funding LLC, and Encore  
 6 Capital Group, Inc. (“Defendants”) will, and hereby do, move the Court for an  
 7 order compelling arbitration of the TCPA claim filed by Plaintiffs Curtis Bentley  
 8 and William Baker (collectively “Plaintiffs”), staying all proceedings on the  
 9 Amended Consolidated Complaint pending completion of arbitration, and striking  
 10 Plaintiffs’ class allegations. Defendants further move, to the extent there is any  
 11 question about whether Plaintiffs entered into agreements to arbitrate, for a  
 12 summary trial of the issue pursuant to 9 U.S.C. § 4.

13                  This Motion is made on the basis that the Federal Arbitration Act, 9 U.S.C.  
 14 § 1 *et seq.*, requires the Court to compel arbitration and issue a stay where, as here,  
 15 the parties have entered into a valid arbitration agreement.

16                  This Motion is based on this Notice of Motion and Motion, the concurrently  
 17 filed Memorandum of Points and Authorities, the supporting affidavits, all  
 18 pleadings and files in this matter, all matters of which this Court may take judicial  
 19 notice, and upon such other and further oral or documentary evidence as may be  
 20 presented to the Court at or prior to the hearing on this Motion.

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1 Dated: July 23, 2018

2 By s/ Edward D. Totino

3 EDWARD D. TOTINO  
AMANDA C. FITZSIMMONS  
4 DLA PIPER LLP (US)

5 RICHARD L. STONE  
AMY M. GALLEGOS  
6 ETHAN A. GLICKSTEIN  
JENNER & BLOCK LLP

7 Attorneys for Defendants  
8 Midland Funding LLC, Midland Credit  
Management, Inc., and Encore Capital  
9 Group

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 23, 2018, I caused to be electronically filed the NOTICE OF MOTION AND MOTION TO COMPEL ARBITRATION, STRIKE CLASS ALLEGATIONS, AND STAY PROCEEDINGS with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 23, 2018.

s/ Edward D. Totino  
**EDWARD D. TOTINO**